IN THE

United States Court of Appeals

FOR THE NINTH CIRCUIT

JOSEPH CARL PARROTT, *Appellant*, vs. UNITED STATES OF AMERICA, *Appellee.*	No. 20730
ROBERT ALAN LAWRENCE, *Appellant*, vs. UNITED STATES OF AMERICA, *Appellee.*	No. 20746
TERRY ALLAN WOLFE, *Appellant*, vs. UNITED STATES OF AMERICA, *Appellee.*	No. 20926
LEONARD RALPH WALKER, II, *Appellant*, vs. UNITED STATES OF AMERICA, *Appellee.*	No. 20927

APPELLANTS' CLOSING BRIEF

J. B. Tietz and
Michael Hannon
410 Douglas Building
257 South Spring Street
Los Angeles 12, California
Attorneys for Appellants.

E. L. Mendenhall, Inc., 926 Cherry Street, Kansas City, Mo. 64106, HArrison 1-3030

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I.

THE EVIDENCE ADMISSION POINT

The government's main contentions here are three: (1) That "this circuit has previously approved the propo-

sition that a duly authenticated copy of the registrant's Selective Service file is admissible in a prosecution for violation of Title 50, Appendix, United States Code, Section 462"; (2) that admission of the various Selective Service files was in conformance with the applicable law; and (3) that appellants' position is that the only proper manner to introduce such a file is to bring into court each and every individual who has worked on it.

Our reply is (1) that none of the cases cited by the government is binding precedent governing these appeals because those of their cases that are in point recite mere dictum; (2) the various files were not admitted in conformance with the applicable laws because they were not authenticated as required by Rule 44, Federal Rules of Civil Procedure; and (3) that the government misconstrues appellants' position regarding the proper manner of introducing such files.

(1) We will take the government's cited cases one at a time and demonstrate why each is not binding precedent determining these appeals. Please note that in three of the present appeals no live witness whatsoever was used and that in the fourth (Walker) the witness's testimony shows that he was not in fact the person in physical custody of the records.

Yaich v. *United States,* 283 F.2d 613 (9th Cir., 1960): Here appellant did not object to the introduction of the entire file but objected specifically to two pages in the file which, he contended, were without proper foundation. The only statement in the case relating to admissibility of the entire file is:

> "Before considering appellant's first specification of error it may be well to note that as a general rule in prosecutions for violation of the Universal Mili-

> tary Training and Service Act, the Selective Service file of the delinquent registrant is admissible into evidence as a public document under the provisions of Title 28, U.S.C.A., Section 1733. . ." [616]

Thus the phrase itself indicates that it is mere dictum, not a point seriously in contention because not raised by proper objection to evidence and argued before the Court of Appeals. It is stated as an aside "Before considering appellant's first specification of error."

The cases cited in support of this dictum (Penor, Ward, Borisuk and Kariakin) will be dealt with hereinafter.

Moreover, this court's records in the Yaich case will show that defense counsel stipulated to the admissibility of all of the file except page 186 thereof, to which the defendant objected (See Yaich, No. 16,641, Reporter's Transcript, page 9).

LaPorte v. *United States,* 300 F.2d 878 (9th Cir., 1962): Again the objection was not to the admission of the entire file but to one page of the file, Form 153, a communication from the Department of Charities to the Selective Service System. In this case, the document in question was identified and explained by an employee of the Department of Charities who was personally called as a witness for that purpose. It should be noted that this witness testified extensively about the nature and preparation of the documents.

Kariakin v. *United States,* 261 F.2d 263 (9th Cir., 1958): Here too, the only part of the case in point is mere dictum:

> "The file was admitted into evidence without objection by his experienced counsel." (page 265)

Thus, the point raised by our appeal was not reached. The Court in Kariakin is merely reciting obiter the statement that follows because that point was not properly in issue:

". . . Regardless of whether his counsel had made objection, the file was admissible as an official record under Rule 44, Federal Rules of Civil Procedure, 28 U.S.C.A."

The only objections made, and thus the only points decided, were as to the allegedly hearsay nature of some specific entries in the file. The records of this Court show that the file was admitted by stipulation of trial counsel.

Olender v. *United States,* (9th Cir., 1954) 210 F.2d 795: This case is an income tax evasion case, not a Selective Service case. The government submitted a file maintained by the Fresno County Department of Public Welfare to prove statements by defendant therein contradictory to his position at trial. The evidence was offered through the testimony of a Fresno County employee who was called as a witness for the purpose of identifying and explaining the file offered. Thus, far from supporting the government's contention on this appeal, this case supports the appellants' contention by demonstrating the proper method of "attesting" such a government record.

United States v. *Borisuk,* 206 F.2d 338 (3rd Cir., 1953):

Again, the case does not support the government's present contention that a Selective Service file is properly receivable in evidence without any testimonial foundation other than the purported signature of the purported and unexamined custodian. In this case, the court held that the file was properly admitted despite the fact that no member of the local board testified. The board file had been introduced through the testimony of the secretary of the board instead (page 340). The court held this to have been sufficient foundation.

In addition to those cases cited by the government, the Yaich case cites two others, neither of which decides the issue raised by this appeal:

Penor v. *United States,* 167 F.2d 553 (9th Cir., 1948): Here the court states simply that the file was sufficiently identified without elaborating on what method of identification was used.

United States v. *Ward,* 173 F.2d 628 (3rd Cir., 1953): Here, the government called the clerk of the office of Selective Service records to identify the files offered in evidence. She also tesified as to the procedures of the board and was cross-examined on all points by defense counsel.

(2) The government's brief begs the question when it recites several times that "duly authenticated copies" are admissible. Our point here is that the files in these appeals were not "duly authenticated."

Title 28, U.S.C., Section 1732, states that records made in the regular course of business shall be admissible into evidence. It is silent on the question of how such records are to be authenticated.

This circuit has held that a foundation must be laid for admissibility under this section. *Bisno* v. *United States,* 299 F.2d 711.

Title 28, U.S.C., Section 1733, provides that government records and papers may be admitted into evidence to prove the transactions recorded therein. It goes on to state that "properly authenticated copies . . . . shall be admitted in evidence equally with the originals thereof." It nowhere states what constitutes proper authentication.

Rule 44, Federal Rules of Civil Procedure, is made applicable by Rule 27 of the Federal Rules of Criminal Procedure. This rule states how an official record shall be authenticated:

". . . may be evidenced by an official publication thereof or by a copy attested by the officer having legal custody of the record *and* accompanied by a certificate that such officer has the custody. . . ." (Emphasis supplied).

We contend that the files in the Parrott, Lawrence and Wolfe cases were not duly authenticated because the copies offered were not attested by a witness present in court. Rule 44 requires both an attestation and a certificate. In these cases there was a certificate alone unless the attestation requirement is satisfied by the mere signature of the purported custodian.

The word "attest" is equivocal and varies from context to context. It is defined as follows by Webster's New International Dictionary, Second Edition, page 178:

"Attest, v.,

"1. To bear witness to; to certify; to affirm to be true or genuine; specif., to witness and authenticate by signing as a witness; also, to authenticate officially; as, to attest the truth of a writing or record.

"4. To put one on oath or solemn declaration.

"Attest, intransitive verb

"1. To bear witness, to testify."

Thus, in some contexts the word connotes a written authentication and in other contexts the word connotes a verbal or testimonial authentication.

Black's Law Dictionary, 4th Edition, page 163, defines "attest" variously in a similar fashion.

To preserve the constitutionality of the statute, as applied to cases such as these, the word "attest" must be interpreted to mean "to testify in court." This point will

be developed below in connection with our discussion of appellee's third major contention.

In appellant Walker's case, we contend that the files were not "duly authenticated" because the actual custodian did not attest them. The certificate said one Captain Proffit was the custodian. The witness, Major Miller, testified that he himself was the custodian. His further testimony showed that neither man had the files under his control and that in the regular course of business the files were kept in the local board office. There, the clerk of the local board has control of them.

The records of this Court show the following: in the first two decades of draft prosecutions the clerk of the local board was always considered the custodian [see the certification on *every* exhibit] and the prosecution made out its case either by bringing her into court or by securing a stipulation that, if on the witness stand, she would testify the photocopy was a true, full and correct copy of the original and that the original was a true, full and correct record of the defendant's Selective Service history. See either the record and/or the opinion of *Affeltdt* v. *U.S.*, No. 13941; *Ashauer* v. *U. S.*, No. 14304; *Berman* v. *U. S.*, No. 10953; *Chernekoff* v. *U. S.*, No. 14370; *Clark* (*A.P.*) v. *U. S.*, No. 14634; *Clark* (*R.*) v. *U. S.*, No. 14176; *Dickinson* v. *U. S.*, No. 13165; *Elder* v. *U. S.*, No. 13405; *Franks* v. *U. S.*, No. 14114; *Gallegos* v. *U.S.*, No. 16725; *Hinkle* v. *U.S.*, No. 14163; *Kaline* v. *U. S.*, No. 14635; *Linan* v. *U. S.*, No. 13404; *Mason* v. *U. S.*, No. 14286, etc., etc. Cf. *Sterrett* v. *U. S.*, 9 Cir., 1954, 216 F.2d 659, on the subject of the weight to be given long standing administrative practice (at 664-665).

(3) As its third major point, the government states that appellant implies ". . . that the only way to properly introduce a registrant's Selective Service file into evidence is to bring into court each and every individual who has

at one time worked on the file or had the file in his office" (Appellee's Parrott Brief, pp. 8-9).

Our Opening Brief set forth the conflict between the purported authenticating certificate on appellant Walker's file and the testimony of the witness, Major Malcolm Miller and that his further testimony shows that the local board office actually had the file most of the time. This is all that was meant or should be implied from that argument.

That which we do contend is two-fold: First, that the file must be attested by the officer actually having custody of the records, and second, that this officer must be produced in court so that he might be cross-examined on the fact of his custodianship, on the correctness of the photo copy, on the regularity of the preparation of the documents—both the originals and the copies—and on any discrepancies or irregularities appearing on the face of the file.

Far from being a useless impediment to swift trial of such cases as the government alleges, such cross-examination is vital to an adequate defense.

Many defendants in cases such as these come into court in a crippled condition. Some failure to observe the strictly enforced time limits, or dismay over the involved bureaucratic intricacy of establishing conscientious objector status has led them into a procedural error which has caused the System to foreclose their claims like the jaws of an iron trap. These young men ultimately find themselves facing the dilemma of having to stand trial in hopes that the prosecution will somehow abort and give them a chance to again approach the system with the assistance of the experienced legal counsel for which they now appreciate the need.

Thus, heavy reliance must be placed by trial counsel for these defendants on some failure of the Selective Service System, or of the induction officials, to observe the requirements of due process of law. They may be denied due process when the induction personnel feel that they will refuse induction. They may get short shrift on medical exams, security tests, etc. These are among their potential defenses. But without opportunity to cross-examine the persons who make the record against them—who do not ordinarily include information concerning the short-cuts they have taken and the corners they have cut—these defendants are deprived of an opportunity to make their full defense through the development of all the facts, in their true perspective. Furthermore, our system does not place upon a defendant the burden of producing the prosecution witnesses in court.

Ordinarily, in a criminal case, the prosecution must put on a prima facie case *in the face of* cross-examination by defense counsel. Here, however, the prosecution merely submits a file, replete with notations made by unknown hands, medical opinions of men whose care and expert qualifications are in no way established by the record presented and whom counsel has no opportunity to take on voir dire, a jumbled mass of mixed fact and opinion by declarants whose competence, bias or prejudice defense counsel is denied any chance to explore.

In an analogous type of situation, this court in *Chernekoff* v. *U. S.*, 9 Cir., 1955, 219 F.2d 721, said ". . . he was like a blind man striking at an invisible foe." (724).

The code sections quoted above merely codify well known exceptions to the rule prohibiting hearsay evidence. Such exceptions are justified by their practical necessity and by the existence of some badge of authenticity about the particular hearsay evidence being introduced.

Here, there is no necessity for the introduction of these files without even the personal testimony of the custodian to identify and explain them. It is at best a matter of mere expedience on the part of the federal attorneys. At worst, it is an attempt to convict on inadequate but unimpeachable evidence—evidence unimpeachable because there is no opportunity to cross-examine and dig behind the surface of the files.

The badge of authenticity that usually justifies the admissibility of government records is the common experience that such records are ordinarily kept in a regular manner by professionally unbiased employees. Usually they amount to but a single document or a small package of documents that form but some link in the chain of evidence.

Here, the documents are the government's entire case.

Here, the badge of authenticity is almost entirely lacking. We are dealing not with the usual situation but with military personnel and pro-military civilians handling men who claim and profess conscientious objections to war and who morally condemn the very activities that constitute the life's work of the employees making the notations. Far from the usual case of unbiased objectivity, these officials are typically filled with what might charitably be called an occupational aversion toward these defendants.

Yet the procedure used here deprives defense counsel of any opportunity to cross-examine any of the entrants to determine the depth and extent of their bias and prejudice against the defendants and whether or not it has been reflected in their evaluations of them.

The Constitution of the United States, Amendment VI, states:

> "In all criminal prosecutions the accused shall enjoy the right to . . . be confronted with the witnesses against him . . ."

Against the imperative command of this part of our Constitution, the government places the alleged necessity of prosecuting a defendant for a serious federal felony by means of this hearsay record alone without so much as producing a single witness to identify and explain the documents.

The government cites one case in support of this alleged necessity, *Wong Wing Foo* v. *McGrath,* 196 F.2d 120, 123, wherein the 9th Circuit states obiter the reasons for the exception to the hearsay rule codified in Section 1733, in an opinion which holds testimony of a witness in a prior hearing inadmissible under that section even though it was part of an official government record. The court, there, states the two principal reasons:

> "There is a practical necessity for the use of such records to which is attached the presumption of a proper performance of official duty."

Here the practical necessity is absent, for all these appellants ask is that the official custodian of the records be produced in court, hardly an overwhelming burden on the government. Furthermore, the presumption of official regularity is sufficiently rebutted by the special circumstances of draft cases discussed hereinabove—the passions and prejudices that the nature of the claims arouses in the officials.

The one case found by counsel that stands for the proposition that the business records exception does not violate the Sixth Amendment is *United States* v. *Leathers,* (.....Cir., 19....) 135 F.2d 507. It holds that the criminal defendant was not unconstitutionally deprived of the right

of cross-examination of witnesses against him when one single air mail stamp was introduced into evidence from the records of a bank to prove that a letter had been sent through the mail. The court stated:

> ". . . it is not necessary to say what limits the Sixth Amendment may set to the extension of exceptions to the rule against hearsay. Probably the permissible extension is a matter of degree."

It is a far cry from one air mail stamp to the voluminous collections of notations, remarks and opinions that these Selective Service files represent. We submit that the permissible limit of extension was reached and passed long before the complexity and need for explanation that these files present was reached.

We contend that the former practice of the government in prosecuting draft cases was correct.

The clerk of the local board was the official who actually kept the records in her custody and had personal knowledge of their contents and the regularity of their preparation and transcription. She should be required to be present in court to lay the foundation for admission of the file.

Perhaps no single court opinion sums up all the contentions of the parties as well as *Doty* v. *United States,* 8 Cir., 1955, 218 F.2d 93:

> "Lastly, it is asserted that the record and files of the draft board were improperly received in evidence because they were not properly identified. The clerk of the local board identified the records and files in question as the record and files of the local board. The clerk was the custodian of those records. They were properly received in evidence." [96].

This procedure was more equitable and fair to the defendants since they then had the opportunity, through

cross-examination, to dig behind the surface of the file and expose the latent defects therein.

Since these are criminal cases and since the government has the burden of proving its case beyond a reasonable doubt, we submit that these files should not have been admitted into evidence without the foundation testimony of their custodian and that the actual custodian is the clerk of the local draft board.

II.

THE NO-BASIS-IN-FACT POINT

Appellee labels its discussion of this subject "Appellant was properly classified."

1. Parrott's case (pages 9-12, Appellee's brief).

All appellee recites on page 9 is indisputable but on page 10 deeper water is reached. To start our rebuttal argument we will adopt appellee's statement concerning the "language from *Estep* v. *United States,* 327 U.S. 114, 122-123 (1946)" and add only *underscoring*:

> ". . . The courts are not to weigh the evidence to determine *if* the classifications made by the local boards are justified. The decisions of the local boards *made in conformity* with the regulations are final even though they may be erroneous. The question of jurisdiction of the local board is reached only if there is *no basis in fact* for the classification which it gave to the registrant."

Continuing our argument that appellee is in error we point out, as an illustration of it, that the following statement on page 10 is a complete misconception of the role of the court and inconsistent with the law already cited by appellee: "The Supreme Court reversed the Ninth Circuit's upholding of the I-A classification, and *ordered the petitioner classified IV-D.*"

Additionally, appellee says (page 11) "Although no such evidence was found in Dickinson, it is submitted that it was plentiful in appellant's case. Careful examination by an appeal examiner disclosed that appellant could not be considered a regular or duly ordained minister of religion." None of the alleged "plentiful" evidence is recited, not an iota. Who the "appeal examiner" is is left to our speculation.

Appellee closes his argument with a good thrust: "Appellant cites no cases where a Jehovah's Witness, doing the amount and type of work done by appellant, was given a minister's classification." (page 11)

In the Fifth Circuit case of *Wiggins* v. *United States,* 261 F.2d 113, the court points out that ministers who must earn their daily bread in secular work must devote the time to a job that the boss requires (p. 115) and concludes:

> "He has shown that he performed his religious duties regularly, without allowing his secular work to interfere with his religious work. We hold that a crane operator working a forty-hour week may be a minister in Jehovah's Witnesses and entitled to the ministerial exemption under the Selective Service Act, although spending only forty hours a month on religious duties."

In appellee's final thrust, *Dickinson* v. *United States,* 346 U.S. 389 (1953) is quoted:

> "Certainly all members of a religious organization or Sect are not entitled to the exemption by reason of their membership, even though, in their belief, each is a minister."

The position of the witnesses can be briefly stated: We are missionaries, not mere members of a congregation; we give all the time we can to our scriptural ministry; when we meet the standard that the law sets for this government agency (the Selective Service System) we expect to be considered seriously for the IV-D, minister's classification.

2. The other appellants (all of whom wanted the I-O, conscientious objector classification):

Appellee argues that the "lateness" of appellants' claims for a conscientious objector classification make their claims "irrelevant" to the question of guilt.

We argue that this deadline-insistence attitude violates the intent of the act and common sense.

Congress intended classifications to be made on a fair and just basis. Even the regulations so state. See Section 1622.1(b), quoting the act. Further, Congress singled out the registrant professing conscientious objections for preferential treatment, creating a careful appellate process for him, and by an independent agency (the Department of Justice), one not under pressure to meet quotas and one professional in its attitude.

Moreover, common sense dictates that needlessly rigid use of "deadlines" is wrong:

It is well understood that few persons cross a bridge until they come to it. This is even more true of the population in the 18-22 age bracket.

Fox-hole conversion is applauded by the clergy. Crystallization of conscientious objector beliefs, upon receipt of a Selective Service notice to report, is equally understandable and respectable. In any event the tiny percentage of registrants taking an anti-war position (12,000 out of 32,000,000 registrants) as shown by the charts in each month's issue of Selective Service, a tabloid published by the Selective Service System, certainly indicates that a fair consideration of such religious claims cannot possibly disrupt the raising of armies.

The records in these three, pacifists', cases show none had an appellate determination of his claim. Of the three,

only Wolfe had an opportunity to meet a board member face to face and his meeting was only a "courtesy interview", a creation of the System that forecloses an administrative appeal. It was not an Appearance Before Local Board, as set forth in the regulations, § 1624. 1 *et seq.*

Since Wolfe had the best "opportunity" we will dwell on it. He made out a *prima facie* case. What does appellee have to say on this, the "merits?" On page 15 it is said "Series VIII of the questionnaire (page 7) does not reflect a claim to be a conscientious objector." Our answer is: the law doesn't require it; of course, it is helpful to a registrant if his opinions are crystalled in high school, so that in his first written statement to the System, at age 18, he can sign Series VIII. Nevertheless, the law recognizes change of status. The regulation, § 1625.1(a), says "No classification is permanent."

There is no other comment, by appellee, on the merit of this appellant's conscientious objector evidence. Only that it should be disregarded.

The *prima facie* case of Wolfe is found in the numerous letters and statements in the exhibit. See pages 40, 61-62, 66 and particularly in his fully executed Special Form (2) for Conscientious Objector. pages 42-46, and 48-51.

The *prima facie* case of Lawrence is in the exhibit, in his record, Special Form for Conscientious Objector, pages 35-44 and in letters throughout the record.

The *prima facie* case of Walker is in the exhibit in his record, as follows: page 59, he requested the Special Form for Conscientious Objector and on page 62 is a repeated request:

Section 1621.11 of the regulation is couched in mandatory language. It contains no "deadline" language, nor grant of discretion to the all-powerful clerks. It reads:

> 1621.11 Special Form for Conscientious Objector. A registrant who claims to be a conscientious objector shall offer information in substantiation of his claim on a Special Form for Conscientious Objector (SSS Form No. 150) which, when filed, shall become a part of his Classification Questionnaire (SSS Form No. 100). The local board, upon request, shall furnish to any person claiming to be a conscientious objector a copy of such Special Form for Conscientious Objector (SSS Form No. 150).

The reporter's transcript in Walker's record shows that this defendant was precluded by the trial court from showing what he had to offer, 36/23. By proffer (38-) it was shown that he could testify to a *prima facie* case (44) and the details of it is in the record as Defendant's A, for identification, (not admitted, 45/14) a 19 page documentation.

We contend the above young men were unnecessarily given too short shrift.

Our contention is best stated by the language used in the Fifth Circuit case of *Williams* v. *U. S.*, 5 Cir., 1954, 216 F.2d 350:

> "Congress in its wisdom considered it more essential to respect a man's religious belief than to force him to serve in the armed forces. The draft boards and the Courts are bound to carry out that policy." (352)

Our contention is sustained by the August, 1966 decision of Judge Albert Lee Stephens, Jr., in the case of *U. S. A.* v. *Curran,* No. 36248, Central District of California. This defendant first filed his conscientious objector form after the issuance of the Order to Report for Induction. Defendant argued he should have had consideration of his claim. The trial judge stated:

"I don't understand exactly the Government's determination to prosecute this case if there is a failure of the Draft Board to consider the issue of whether he is or he isn't a conscientious objector, whether it is a technicality or it isn't, when he is willing to do this other work. I think we asked the Government if they would do it, and they came back and said no, they wanted to prosecute.

"Well, I do have some question in my mind about what the Draft Board ought to have done in that case. Let's hear from the Government if they have any more to say."

The United States argued that the board decided not to reopen. The Court said:

"THE COURT: And if they come to the conclusion, if they do their duty, they make their determination, and they let him have his appeal. He is ruled against, then I don't think he has anything he can complain about. I think that the Government is bound to prosecute.

"But, on the other hand, where they haven't come to that conclusion, and they have ducked it on a technicality, which as I look at it now may really be a serious question of whether or not they were deciding the issue in their own minds that he was or he wasn't a conscientious objector—in other words, if the Draft Board said to each other, and we don't know what they said, but if the members had said to each other, 'Well, this guy is a Jonnie come lately. He just made up his mind to be a conscientious objector overnight. He has been trying to duck the draft. Everything he has done here shows that. So we don't believe he is a conscientious objector.'

"So if that's what they said, they are wrong. Because to that type of a determination he has the right of an appeal."

After further argument the Court concluded:

> "THE COURT: Well then, I think that that's their determination. And he has a right to an administrative appeal from it. I find the defendant not guilty.
>
> "Now, this is an unpopular decision, as far as I am concerned. It is unpopular with me. The defendant isn't popular with me for this attitude. But I think he is entitled to this decision, and I think he should go back—I mean the Draft Board ought to reconsider it."

This is what each appellant wants.

III.

THE REOPENING POINT

Most of appellee's briefing is devoted to upholding the deadlines set up by this agency's regulations. A strict construction of the regulations on "reopening" a classification is urged.

This court has already established a guide line that applies here, namely that the local board's method of changing the induction date may be the equivalent of a reopening and a renewal of the registrant's opportunities to submit a change of status. In *Hamilton* v. *Commanding Officer*, 9 Cir., 1964, 328 F.2d 799, it was reasoned in an analogous situation (but weaker, because Hamilton was a civil case and the burden was on him):

> "The regulations allowing a personal hearing if request is made within ten days after classification[3] do not permit an extension because of failure to have one's mail promptly attended to and forwarded.[4] Further, after the order for induction was mailed, there would ordinarily be no right to be heard.[5]
>
> "But in our view the board did subsequently cancel its order to report by its postponement on March

6, 1963, 'until further notice' of induction. Thus, after March 6, he was entitled to submit any proof of change of circumstance[6] since his last classification of February 6, 1963." (802)

The record of Wolfe's appeal shows the following:

June 30, 1965 he was sent his Order to Report for Induction (39).

July 3, 1965, he applied for a conscientious objector classification (40).

On July 26, 1965 he was sent a communication stating "1. By authority of State Director—TALB dated Feb. 18, 1964 your induction into the armed forces heretofore fixed for July 27, 1965 in Order to Report for Induction (SSS Form No. 252) issued by this local board on June 30, 1965 is hereby POSTPONED until further notice.

"You will be advised by this local board as to the date you will present yourself to this board for delivery for induction after termination of this postponement." (52)

The other appellants do not have such clear-cut cases, on this (reopening) point, and our argument on this point is limited to Wolfe's appeal.

IV.

OTHER POINTS

None preserved by the record, and briefed, are waived merely because not further argued in this Closing Brief.

Respectfully,

J. B. Tietz and
Michael Hannon
Attorneys for Appellants